

Internal Revenue Service, Treasury

§ 1.825-3

(i) The amount required to be subtracted from the protection against loss account under section 824(d)(1)(C) (relating to amounts equal to the unused loss carryovers to the offset year), plus

(ii) The mutual insurance company taxable income for the taxable year, computed without regard to any unused loss carryback or carryover from the loss year or any taxable year thereafter.

[T.D. 6681, 28 FR 11123, Oct. 17, 1963]

§ 1.825-3 Examples.

The application of section 825 may be illustrated by the following examples:

Example 1. For the taxable year 1967, F, a mutual insurance company subject to the tax imposed by section 821(a), has the following items:

Taxable investment income	1
Underwriting loss	59
Addition to protection against loss account	8
Statutory underwriting loss	67

The subtractions from the protection against loss account are as follows:

Amount subtracted from amounts in account with respect to taxable years 1963 through 1966	18
Amount subtracted from amounts in account with respect to taxable year 1967	8

Total subtractions from protection against loss account under section 824(d)	26
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The application of section 825 in this case may be illustrated by the facts and results shown in the following table and explained below:

	TAXABLE YEAR					
	1963	1964	1965	1966	1967	1968
Protection against loss account:						
Addition to account during taxable year	6	2	3	7	8	7
Subtraction from account during taxable year	0	0	0	0	8	7
Protection against loss account (at end of year)	6	2	3	7	0	0
Protection against loss account (at end of taxable year 1968)	0	0	0	0	0	0
Unused loss	0	0	0	0	40	0
Unused loss carryback	0	40	35	25	0	0
Unused loss carryover	0	0	0	0	0	18
Unused loss deduction	0	40	35	25	0	18
Mutual insurance company taxable income (computed without regard to unused loss)	13	5	10	7	0	2
Mutual insurance company taxable income (computed with regard to unused loss)	13	0	0	0	0	0
Offset for year	0	5	10	7	0	9
Offset total	0	5	15	22	22	31

1967: Under the provisions of section 825(b), F's unused loss for 1967 is 40, the amount by which the sum of the statutory underwriting loss and the investment loss, 67 (67 plus 0), exceeds the sum of the taxable investment income, the statutory underwriting income, and the amounts required to be subtracted from the protection against loss account under section 824(d) for the taxable year, 27 (the sum of 1, 0, and 26, respectively).

1967 carryback to 1964: Under the provisions of section 825(e), the entire unused loss for 1967 of 40 is carried back to 1964, the earliest year to which the loss may be carried under section 825(d). Since there are no other amounts carried to 1964, the unused loss deduction for 1964 is 40. Thus, after taking the unused loss deduction into account, the mutual insurance company taxable income for 1964 is zero, and the offset for 1964 is 5 (the mutual insurance company taxable income for 1964 determined without regard to the unused loss carryback from 1967 or any year thereafter).

1967 carryback to 1965: The portion of the unused loss for 1967 which is carried back to 1965 is 35 (40 minus 5, the offset for 1964). After taking the unused loss deduction into account, the mutual insurance company taxable income for 1965 is zero. The offset for 1965 is 10, the mutual insurance company taxable income for 1965 determined without regard to any unused loss carryback from 1967 or any year thereafter.

1967 carryback to 1966: The portion of the unused loss for 1967 which is carried back to 1966 is 25. This amount is the excess of the unused loss for 1967 of 40 over the sum of the offset for 1964 (5) and the offset for 1965 (10). As a result of the unused loss deduction the mutual insurance company taxable income for 1966 is reduced to zero. The offset for 1966 is 7.

1967 carryover to 1968: Under the provisions of section 825(d), the portion of the unused loss for 1967 which is carried forward to 1968 is 18 (40 minus the sum of 5, 10, and 7, the offsets for 1964, 1965, and 1966, respectively).

Under section 825(f)(2), this amount is first applied against any amounts in the protection against loss account at the end of 1968, and is then applied against the mutual insurance company taxable income for 1968 (computed without regard to any unused loss carryovers or carrybacks from 1967 or any taxable year thereafter). Thus, assuming that there are no other subtractions from its protection against loss account under section 824(d) for 1968, F's protection against loss account of 7 is reduced to zero by reason of the subtraction under section 824(d)(1)(C). The remaining portion of the unused loss for 1967 which is carried to 1968, 11 (18 minus 7, the amount of the unused loss carryover to 1968 which is subtracted from the protection against loss account under section 824(d)(1)(C)), is then applied against the mutual insurance company taxable income for 1968 computed without regard to any unused carryback or carryover from the loss year (1967) or any taxable year thereafter. After the application of the unused loss deduction for 1968, the mutual insurance company taxable income for 1968 is zero. The offset for 1968 is 9, the sum of the amount required to be subtracted from the protection against loss account under section 824(d)(1)(C) for 1968 (7), plus the mutual insurance company taxable income for 1968, determined without regard to any unused loss carryover or carryback from 1967 or any year thereafter (2). The remaining 9 of the unused loss for 1967 (40 minus the sum of 5, 10, 7, and 9, the offsets for 1964, 1965, 1966, and 1968, respectively), is carried forward to 1969, and to the extent not used in that year or any year thereafter, may be carried forward to 1970, 1971, and 1972, in that order.

Example 2. If in example 1 F had an unused loss in 1966 of 22, then, with respect to F's 1967 unused loss of 40, the offset for 1964 would be zero; the offset for 1965 would be 6—the 1965 mutual insurance company taxable income of 10 less an unused loss carryback of 4 from 1966 (the 1966 unused loss of 22 minus the 1963 offset of 13 and the 1964 offset of 5); the offset for the loss year 1966 would be zero, and 34 (the 1967 unused loss of 40 minus the offset for 1965 of 6) would remain as an unused loss carryover to 1968, 1969, 1970, 1971, 1972, in that order. Thus, the unused loss carrybacks or carryovers to an offset year are applied against the mutual insurance company taxable income for such year in the order in which the losses occurred, with the earliest loss being offset first.

Example 3. For the taxable year 1963, M, a mutual insurance company subject to tax imposed by section 821(a), has an unused loss (as defined in section 825(b)) of \$65,000. Under section 825(g), the loss may not be carried back to any taxable year beginning before 1963. However, the loss may be carried forward to each of the 5 taxable years following 1963 provided that for each of such suc-

ceeding taxable years M is subject to the tax imposed by section 821(a).

Example 4. Assume the facts are the same as in example 3, except that for the taxable year 1964, the gross amount received by M from the items described in section 822(b) (other than paragraph (1)(D) thereof) and premiums (including deposits and assessments) exceeds \$150,000 but does not exceed \$500,000. If M does not make the election under section 821(d) (relating to election to be taxed under section 821(a)) for 1964, M's 1963 unused loss of \$65,000 will not be allowed as an unused loss carryover or carryback since, by reason of section 825(g)(3), the unused loss may not be carried to any taxable year if, between the loss year and such taxable year, there is an intervening taxable year for which the insurance company was not subject to the tax imposed by section 821(a), and by reason of section 825(g)(1), the unused loss may not be carried to any taxable year beginning before 1963.

[T.D. 6681, 28 FR 11123, Oct. 17, 1963]

§ 1.826-1 Election by reciprocal underwriters and interinsurers.

(a) *In general.* Except as otherwise provided in section 826(c), any mutual insurance company which is an interinsurer or reciprocal underwriter taxable under section 821(a) may elect under section 826(a) to limit its deductions for amounts paid or incurred to its attorney-in-fact to the deductions of its attorney-in-fact which are allocable to income received by the attorney-in-fact from the reciprocal during the taxable year. See § 1.826-4 for rules relating to allocation of expenses. In no case may such an election increase the amount deductible by the reciprocal for amounts paid or due its attorney-in-fact for the taxable year. The election allowed by section 826(a) and this section in effect increases the income of the reciprocal by the net income of the attorney-in-fact attributable to its business with the reciprocal. A reciprocal making the election is allowed a credit for the amount of tax paid by the attorney-in-fact for the taxable year which is attributable to income received by the attorney-in-fact from the reciprocal. See section 826(e) and § 1.826-5.

(b) *Companies eligible to elect under section 826(a).* Any mutual insurance company which is a reciprocal underwriter or interinsurer subject to the tax imposed by section 821(a) may elect